

EXHIBIT A

Serial No.: 09/578,810
Attorney Docket No.: 10970-009

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

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JUN 27 2005

Group Art Unit: 1722
Examiner: Robert B. Davis
Inventor: Maddox et al.
Serial No: 09/578,810
Filed: May 24, 2000
For: SEALING BLADE

SECOND
PETITION TO
WITHDRAW
HOLDING OF
ABANDONMENT

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail with sufficient postage addressed to: Box DAC, Assistant Commissioner for Patents, Washington, DC 20231 on March 12, 2003.

By 

Box DAC
Assistant Commissioner for Patents
Washington, DC 20231

Dear Sir:

This communication is a SECOND PETITION TO WITHDRAW HOLDING OF ABANDONMENT based on a failure to receive an office action, pursuant to 37 C.F.R. §1.181.

Regarding the background of this petition, Applicant's first petition was denied upon the grounds that a copy of the docket record where the non-received Office Action would have been entered had it been received and docketed was not attached and referenced in the practitioner's statement, and a copy of the docket record where the non-received Office Action would have been entered had it been received and docketed was not attached and referenced in the practitioner's statement. Specifically, the Decision stated that since the present case was being prosecuted by another attorney (Harness, Dickey & Pierce P.L.C.) at the time the Office Action was sent out, the records of that law firm would be needed as

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evidence to support a position of not receiving an office action. These noted deficiencies are corrected herein.

In support of this petition, the undersigned submits the following statements for consideration:

1. In a telephone conversation with Examiner Robert B. Davis the examiner responsible for the present application, it was learned that an Office Action was mailed by the Patent Office on September 5, 2001 in connection with the above application.
2. Having received no response to the subject Office Action, a Notice of Abandonment was subsequently issued by the Patent Office and mailed on May 15, 2002.
3. In conferring with Examiner Davis, it was further learned that the subject Office Action was mailed to the Troy, Michigan office of Applicant's former attorneys at Harness, Dickey and Pierce.
4. Upon learning of this fact, the undersigned wrote to Mr. Stanley Erjavac, a member of the executive committee of Harness, Dickey and Pierce, requesting that he review the records of that firm and advise if the subject Office Action had been received by that firm and forwarded to the undersigned. A copy of the referenced letter is attached as Exhibit 1. It is noted that the reference number, 2171-000149, cited in the "Re" line of that letter was the present application's attorney docket number when this matter was being handled by that prior firm.
5. A verbal response was received from a Ms. Karen Garrett (the last name may be misspelled and mispronounced), an administrative assistant with Mr. Erjavac's firm, indicating that she was calling on Mr. Erjavac's behalf, that she had searched that firm's records and that she had found no record of the subject Office Action having been received by that firm and/or forwarded to the undersigned.

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6. The first petition was subsequently filed. Upon receipt of the Decision on Petition (dated August 21, 2002) denying Applicant's First Petition for Withdrawal of Holding of Abandonment, the undersigned again requested the assistance of Mr. Erjavac (Exhibit 2) in complying with the information noted as missing in the Decision on Petition. During the Thanksgiving holiday a one page facsimile response was received from the Docketing/Records Department Supervisor of Harness, Dickey & Pierce, stating that the file jacket was no longer in their possession, that had they received the subject Office Action it would have been therein and transferred with the file jacket or forwarded upon receipt if the file had been previously forwarded, and that their docket records show no such record of having received an Office Action.

8. While the facsimile dated November 26, 2002 was received by the undersigned, an original copy of the fax, along with the attachments, was never received. (See Exhibit 3.)

9. Follow up conversations with Harness, Dickey & Pierce have resulted in receipt of an original second letter dated February 27, 2003, along with the attachments referenced in the letter. The letter and attachments are presented herein as Exhibit 4.

10. As stated in the letter of Exhibit 4, the original file jacket was forwarded to the undersigned by the law firm of Harness, Dickey & Pierce on approximately May 7, 2001, before the mailing of the Office Action referenced in paragraph 1. (See Exhibit 4, Statement of Coralynn Williams, Docketing/Records Department Supervisor of Harness, Dickey & Pierce.) The file jacket then resided and now resides with the undersigned. Accordingly, the prior law firm of Harness, Dickey & Pierce would have no file jacket which it could search in order to be able to state that a search of the file jacket was conducted and indicates that the Office Action was not received.

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11. The undersigned has conducted a search of the actual and original file jacket of the present application and no such Office Action is located within the file.

12. If Harness, Dickey & Pierce had received any such Office Action before the transfer of the file jacket to the undersigned on May 7, 2001, it would have appeared in their docket. A copy of the Harness, Dickey & Pierce docket is attached. (See Exhibit 4, at Tab C.) A review of the Harness, Dickey & Pierce docket record for the time period of September 1, 2001 through December 31, 2002 of matters relating to Applicant reveals that no entries for the present application, Serial No. 09/578,810, are found in the Harness, Dickey & Pierce docket.

13. Additionally, the docket records of the undersigned's docketing system indicate that the subject Office Action was not received. Attached hereto as Exhibit 5, is a copy of the undersigned's docket record. The records show no entry for an office action received in September 2001 and having a deadline of response in December 2001. The multiple entries on the docket record sheet for "Response Filed - Follow-up" all relate to the Response to Restriction filed on June 12, 2001 by the undersigned. This is made clear by the June 12, 2001 date listed under the column "Response Sent" of the docket record sheet. These entries are reminders to the undersigned to follow up on the restriction response and are clearly seen to be unrelated to the subject office action of the Petition.

14. A review of all the appropriate records reveals that the Office Action mentioned in paragraph 1 above was never received by Applicant.

15. The above statements made upon the undersigned's personal knowledge are true, and those statements made on information and belief are believed to be true.

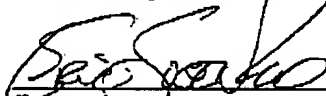
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CONCLUSION

Based on the submitted evidence supporting the conclusion that the subject Office Action has not been received by Applicant, its current attorneys or its former attorneys, it is submitted that the Notice of Abandonment mailed May 15, 2002 should be withdrawn. It is further submitted that the Patent Office should issue a new Office Action in connection with this application, corresponding to the September 5, 2001 Office Action.

It is believed that no fee is due with this petition. If a fee is required, please consider this correspondence as authorization to charge deposit account 23-1925 for the proper amount. A duplicate copy of this page is attached for this purpose.

Respectfully submitted,



Eric J. Sosenko
Reg. No. 34,440
Attorney for Applicant

BRINKS HOFER GILSON & LIONE
P.O. Box 10395
Chicago, Illinois 60610
(734) 302-6000